IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE NINTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 10577 of 1999

Between:

1. U. Suryavathi, W/o. Late Satyanarayana Murthy,
Hindu, aged about 56 years, Cultivation,

R/o. Narasarapurapupeta, Ramachandrapuram Mandal,
East Godavari District.
2. U. Narayana Rao, S/o. Late Satyanarayana Murthy,
Hindu, aged about 39 years, cultivation,

R/o. Narasarapurapupeta, Ramachandrapuram Mandal,
East Godavari District.
3. U. Machi Raju, S/o. Late Satyanarayana Murthy,
Hindu, aged about 33 years, Cultivation,

R/o. Narasarapurapupeta, Ramachandrapuram Mandal,
East Godavari District.
4. U.S.R.T. Annapoorna, D/o. Late Satyanarayana Murthy,

Hindu, aged about 29 years, Cultivation,

R/o. Narasarapurapupeta, Ramachandrapuram Mandal,
East Godavari District.
5. U.V. Sai Rama Krishna, S/o. Late Satyanarayana Murthy,
aged about 56 years, Cultivation,
R/o. Narasarapurapupeta, Ramachandrapuram Mandal,
East Godavari District.

..... PETITIONERS

AND

1. District Collector, East Godavari District at Kakinada.

2. The Sub Collector, Rajahmundry, East Godavari District.

3. The Mandal Revenue Officer, Ramachandrapuram Mandal,

East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

issue an order or direction, more in the nature of Writ of Mandamus, declaring the unauthorised threat of dispossession of the petitioners dated 15.05.1999 by the respondents relating to an extent of Ac.4.00 in Sy.Nos.331/1 and 331/2 of Narasapurapupeta, Ramachandrapuram Mandal, East Godavari District in pursuance of Section 6 Declaration dated 17.03.1999 as published in Andhra Bhoomi dt.20.04.1999 and the Section 4(1) Notification relating thereto published in the District Gazette without notice to the petitioners and without following any procedure and without publishing their names in any one of the Land Acquisition Proceedings as totally bad, arbitrary, illegal, unjust and unconstitutional, being violative of Articles 14, 21 and 300A of the Constitution of India and consequently direct the respondents not to dispossess the petitioners from their lands.

Counsel for the Petitioners: MR.D.RAMESH

Counsel for Respondents: GP for Revenue and G.P. for Land Acquisition.

The Court made the following ORDER:

The first petitioner is the wife and petitioners 2 to 5 are children of late Satyanarayana Murthy. He was allegedly cultivating the wet land admeasuring Acs.6.00 comprised in S.Nos.331/1 and 331/2 belonging to Sri Bhavani Sankara Swamy Vari Temple of Narasapurapupeta of Ramachandrapuram Mandal of East Godavari District. After the death of the tenant on 19-4-1991, the petitioners claimed the tenancy rights. Be that as it is, alleging that on 15-5-1999 the respondents informed the petitioner that possession will be taken forcibly, the petitioners approached this court questioning the land acquisition proceedings. The notification issued under Section 4(1) or declaration issued under Section 6(1) of the Land Acquisition Act 1894 (for short 'the Act') are not specifically challenged. Be that as it is, the petitioners contend that they were not put on notice before issuing notification under Section 4(1) nor their names are mentioned in the notification under Section 4(1) of the Act and therefore, the same is illegal. The petitioners are small farmers and, therefore, their land cannot be acquired. In any event, the petitioners claim that they are entitled for apportionment of compensation.

This court admitted the writ petition on 26-5-1999 and passed interim orders staying dispossession.

In the counter affidavit, it is stated that possession of the land was taken on 17-5-1999 duly paying 80% of the compensation to the temple. It is also stated that the Endowment Department has given consent for acquisition of the lands and, therefore, there is no necessity to take the consent of the tenants. Further, it is averred that as Satyanarayana Murthy failed to pay the rents at agreed rate, the Executive Officer refused renewal of lease and, therefore, the first petitioner's husband ceased to be a lessee of the temple lands.

The Government as a policy decided to acquire the temple lands which are kept fallow and not yielding reasonable return by paying adequate compensation to the temples and other religious institutions. Such acquisition was not made subject

to the consent of the tenants. As per various Government Orders, it is not disputed, the Revenue authorities were required to take consent of the temple authorities, pay 80% compensation and take possession of the land under acquisition.

This court in **Janapareddy Venkateswara Rao Vs. District Collector, Eluru** it is laid down that the exercise of power of eminent domain by the State does not presuppose that the State should obtain consent of the person in occupation of the land. Therefore, the submission is devoid of merits. Secondly, the notification issued under Section 4(1) of the Act cannot be invalidated on the ground that the names of the owners are not mentioned in the notification. Insofar as the submission that the petitioners as cultivating tenants are entitled for compensation is concerned, the petitioners are admittedly cultivating tenants and therefore after coming into force of Section 82(1) of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 the petitioners' lease stands cancelled. Therefore they cannot be said to have any grievance, if the land is acquired. They may claim the compensation, if they are so entitled by appearing before the Land Acquisition Officer. Their claim has to be decided in accordance with the judgment of the Division Bench of this Court in **Katari Satyanarayana V. District Collector**.

The Writ Petition, with the above observations, is dismissed. No costs.

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V.V.S. RAO, J.

9th August, 2004

js.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Collector, East Godavari District at Kakinada.
2. The Sub Collector, Rajahmundry, East Godavari District.
3. The Mandal Revenue Officer, Ramachandrapuram Mandal,

East Godavari District.

4. 2 CCs to G.P. for Revenue, High Court Buildings, Hyderabad.(OUT)

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